



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/814,470	03/21/2001	Jeffery Seeley	1017-011US01	4127

28863 7590 03/28/2006
SHUMAKER & SIEFFERT, P. A.
8425 SEASONS PARKWAY
SUITE 105
ST. PAUL, MN 55125

EXAMINER

KESACK, DANIEL

ART UNIT PAPER NUMBER

3624

DATE MAILED: 03/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/814,470	SEELEY ET AL.	
	Examiner	Art Unit	
	Dan Kesack	3624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) 19-29 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>6/28/2001</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant's election without traverse of Group I in the reply filed on January 13, 2006 is acknowledged.
2. This application has been reviewed. Original claims 1-18 are currently pending. Claims 14-29 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on January 13, 2006. Applicant is respectfully advised to cancel claims 14-29, drawn to the non-elected inventions of Groups II and III.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3624

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 1-9, 11-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Risk Management Agency (RMA) Online in view of Chance, *An Introduction to Derivatives*.

Claims 1, 8, 9, 11, 12, 14, RMA teaches methods for transacting exchanges of agricultural products. RMA teaches a minimum price contract, comprising providing consideration to the agricultural producer, defining a quantity of an agricultural product and a target date, deferring the pricing of the quantity beyond a target date, and receiving notification from the agricultural producer of pricing of the quantity (RMA, "Minimum Price Contract" – Description).

Claim 1, 8, 9, 11, 12, 14, RMA fails to teach defining a maximum price, and receiving an election in the event the market price is less than the maximum price on the target date.

Chance teaches an option for a derivative, known as a barrier option. Chance teaches defining a maximum price for an option, and exercising the option in the event the market price is not below the maximum price on the target date (Chance, page 654).

Art Unit: 3624

It would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to combine a barrier option, as taught by Chance, with a minimum price contract, as taught by RMA. RMA teaches options on commodity contracts are especially important to producers because they offer price protection without limiting profit potential, because the producer would have the right, but not the obligation to enter into the minimum price contract based on market conditions on a certain date, and the producer can choose to act in a way that is most beneficial to the producer's own investments (RMA, "Options of Futures Contracts")

Claim 2, 15, RMA teaches a fixed price contract, wherein the agricultural producer is paid a predetermined fixed price.

Claim 3, 16, RMA and Chance fail to teach defining a final delivery date, and receiving delivery of the quantity no later than the final delivery date.

Official notice is taken that defining a final delivery date and receiving a quantity no later than the final delivery date is old and well known in the art. It would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the contract taught by RMA to include a final delivery date because agricultural products may become expired or out-of-date, and are of no use to the buyer in this case. Therefore, they must be delivered and user by the buyer before this occurs.

Claim 4, 5, 17, RMA teaches defining a final pricing date and receiving notification from the agricultural producer of pricing of the quantity no later than the final pricing date (RMA, "Minimum Price Contract" – Example).

Claim 6, 7, 18, RMA teaches a deferred price contract wherein the seller transfers ownership to the buyer on the contract date without setting a sales price. The sales price is set at a future date, and the buyer charges an up front or monthly fee (RMA, "Deferred Price Contract").

Claim 13, RMA teaches a hedge-to-arrive contract in which consideration is provided to the producer based on a basis level determination at a later date.

6. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Risk Management Agency (RMA) Online in view of Chance, *An Introduction to Derivatives*, as applied to claim 1 above, and further in view of Brock, "The Brock Report."

RMA and Chance fail to teach receiving delivery of a second quantity of a second agricultural product, and paying a sum to the producer based upon the market price of the second quantity plus a premium.

Brock teaches receiving delivery of a second, future crop after receiving delivery of a first crop, and paying a price based on the market price of the second, future crop. It would have been obvious would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the contracts taught by RMA to include

Art Unit: 3624

the method steps taught by Brock because Brock further teaches the result of this strategy being increased cash sales, and building long-term loyalty.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dan Kesack whose telephone number is 571-272-5882. The examiner can normally be reached on M-F, 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on 571-272-6747. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



HANI M. KAZIMI
PRIMARY EXAMINER